

PARTIES

4. Plaintiff **CP** consists of a Delaware Corporation with a principal place of business in New York, **CP** does business throughout Canada and in several states in the United States including the State of New York,

5. Defendant, **FINCH** is a Delaware Limited Liability Company, with its main office at 1 Glen Street, Glens Falls, New York.

6. Plaintiff and its connecting carriers at all times mentioned were common carriers by railroad engaged in interstate commerce and doing business in the United States and Canada.

7. The subject matter of this action stems from charges assessed under tariffs published by the Plaintiff for supplemental services of railcars and performed by **CP** for **FINCH**, in the United States. The tariff which applies to the charges included in this action is Canadian Pacific Tariff #2 Railcar Supplemental Services (hereinafter “CP Tariff #2”) for the various dates that the charges accrued.

FIRST COUNT

8. The subject matter of this Count stems from demurrage charges assessed under CP Tariff #2” published by the plaintiff for Railcar Supplemental Services performed by **CP** for **FINCH** in Glen Falls, New York. The railcars in question accrued demurrage at CP Station 03971 “Glen Falls”. These railcars were constructively placed pursuant to **CP** Tariff #2 and constructive placement notice was given to **FINCH**. Therefore, all the accrued demurrage at “Glen Falls” accrued on the tracks of **CP** awaiting notice from defendant Finch and they were placed at Finch’s Glen Falls track after the free time to unload the cars had expired pursuant to CP Tariff #2. These charges accrued at times between September 2013 and March 2015 and are listed on Exhibit “A” to this Complaint.

9. Pursuant to the applicable tariff, there accrued to **CP** charges for these services the sum of **\$1,349,050.00 USD**. A listing of the charges and the amount due for each is attached hereto as Exhibit "A."

10. These charges were billed and payment demanded for the services rendered by **CP** to **FINCH**; however, said defendant has failed and refused to pay the bills noted in this Complaint.

WHEREFORE, Plaintiff, **CP** demands that judgment be entered in its favor against the defendant, **FINCH**, in the amount of **\$1,349,050.00 USD**. Additionally, **CP** demands a judgment against said defendant for any other charges which may be due at the time of hearing, together with prejudgment interest from the date of service, and for the costs and disbursements on the First Count of the Complaint

SECOND COUNT

11. Plaintiff repeats the allegations of Paragraphs 1 through 10 of the First Count of the Complaint as if set forth at length herein.

12. The subject matter of this Count stems from charges assessed under tariffs published by the Plaintiff for supplemental services performed by **CP** for defendant, **FINCH**, at Glen Falls, NY. **CP** performed switching and handling services at the request of **FINCH** for periods between 2013 and 2015.

13. Pursuant to Canadian Pacific Tariff #2 for Supplemental Services, including but not limited to changes and corrections to shipping documents, there accrued to **CP** charges for these services the sum of **\$9,158.00 USD**. A listing of the charges and the amount due for each is attached hereto as Exhibit "B".

14. These charges were billed and payment demanded for the services rendered by **CP** to **FINCH** however, said defendant has failed and refused to pay the bills noted in this Complaint. Therefore **CP** makes demand on this Second Count of the Complaint for **\$9,158.00 USD** plus interest and costs.

DEMAND

WHEREFORE, Plaintiff, **CP**, demands that judgment be entered in favor of **CP** against the defendant, **FINCH**, in the total amount of **\$1,358,205.00 USD**. Additionally, **CP** demands judgment against defendant for any other charges which may be due at the time of hearing, together with prejudgment interest from the dates of service, and for the costs and disbursements of the Complaint.

CAPEHART & SCATCHARD, P.A.
A Professional Corporation
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